REMARKS

The following remarks are submitted to address all issues in this case, and to put this case in condition for allowance. Application claims 1 – 29 are pending in this application. Application claims 1, 26 and 29 are the only independent claims. Applicants have studied the Office Action mailed June 29, 2009 and respond with the following remarks. These remarks are submitted to address all issues in this case, and to put this case in condition for allowance.

35 USC §101

The Examiner has rejected claim 1 under 35 U.S.C. 101 as drawn to a non-statutory subject matter. The Examiner asserts that the steps of claim 1 are related to a mental process, which is not patentable. Specifically, the Examiner asserts that claim 1 is not patentable because it is not tied to another statutory class, nor does it transform the underlying subject matter to a different state or thing. Without regard as to the correctness of the Examiner's rejection, claim 1 has been amended to add a device to one or more steps of the body of the claims, rendering the Examiner's rejection moot.

35 USC §102

The Examiner has rejected claims 1, 4, 7-17, 21-26 and 28 under 35 U.S.C. §102 as being anticipated by Teveler, *et al.* (2001/0034663). Applicants respectfully traverse on the grounds the Examiner has failed to show anticipation of Applicants' amended claims by Teveler, and Applicants further contend that it is, in fact, not possible for Teveler to anticipate Applicants' amended claims as Teveler fails to show a significant

number of elements of the present claims. Applicants note that "'a claim is anticipated only if each and every element as set forth in the claims is found. . . in a single prior art reference.'" MPEP 2131, citing *Verdegall Bros v. Union Oil of California*, 814 F.2d 628, 631 (Fed. Cir. 1987).

As a preliminary matter, Applicants note that the system of Teveler is grossly different from Applicants' amended claims. Teveler discloses a system for providing a buyer with a discount on certain commodities by tying an original transaction to the long term purchase of certain commodities. In other words, the discount (the Examiner's claimed incentive) arises from the collective purchase of commodities; a discount is not actively accrued with a single purchase, but rather is only obtained if a given buyer adheres to his or her contract to purchase a certain amount of goods or services over a period of time. Further, a discount is not obtained solely by use of a certain lending instrument, but rather is only obtained by collective purchasing of a certain commodity over a specified period of time. As such, this system is missing many elements of Applicants' amended claims.

One, Teveler fails to show the element of crediting an incentive lending instrument with funds borrowed from a secured principal lending instrument. The Examiner cites to Figure 16, specifically 1709 to satisfy this element. This assertion falls short. 1709 simply shows the transfer of the buyer's collective buying agreement to a trading server for bidding by contractors. It in no way discloses the use of funds obtained by the borrowing from one lending instrument, in particular a secured lending instrument (*i.e.*, a lending instrument in which the debt is secured by collateral), to pay off the debt

of another lending instrument, in particular an incentive lending instrument from which bonus points are actively accrued immediately at the time of borrowing.

Two, Teveler fails to recite a principal lending instrument that provides for secured lending. To satisfy this element of Applicants' claims, the Examiner points to a debt account of Teveler in the buyer's name in the amount of the collective discount that is backed by the buyer's credit card or a line of credit (paragraph 27). In the situation in which a buyer would default on his agreement to purchase commodities over the course of the agreed upon period of time, the commodity traders could enact a debt-balance transfer to access the funds held in this account. Thus, this account is a collateral account of funds used to compensate a commodity trader if a buyer defaults on his long term purchasing obligations. *It is not* a lending instrument; one cannot take a loan off this account. As it is not even a lending instrument, this account obviously cannot be a secured lending instrument. Rather, this account is collateral for a collective buying agreement. Teveler is clearly missing this element of Applicants' amended claims.

Three, nowhere in Teveler is disclosed the element of an incentive lending instrument providing active accrual of bonus points simply for borrowing from the incentive lending instrument. Rather, the "incentive" of Teveler cited by the Examiner to satisfy this element is a selected discount offered to a buyer of goods. First, this discount is not bonus points. Second, this discount is not actively accrued simply by the use of a certain lending instrument. In stark contrast, this discount is only obtained by a buyer adhering to a contract to buy a certain amount of goods over a selected period of time.

Taken the above together, the Examiner's cited elements of Teveler are wholly different from, and not relevant to, the system disclosed in Applicants' amended claims.

Since, as discussed above, Teveler lacks multiple elements of each of the amended independent claims of the present application, it is axiomatic that Teveler cannot anticipate the present dependent claims and they would be allowable over the cited art.

35 USC §103

The Examiner has rejected the pending claims 2-3, 5-6, 27 and 29 under 35 U.S.C. §103 as being obvious in light of the combination of Teveler and Examiner's Official Notice. Applicants respectfully traverse the Examiner's obviousness rejection of Applicants' claims 2-3, 5-6, 27 and 29 with the combination of Teveler and Examiner's Official Notice. Applicants' amended claims provide for the transformation of debt between two lending instruments, such that a party can receive incentives while avoiding interest penalties. In Teveler, there is no such transfer of debt, there are not two lending instruments, there is no receipt of incentives and there is no method for avoiding possible penalties. Accordingly, as discussed further *supra*, Teveler is missing numerous elements of Applicants' amended claims. The Examiner's notice fails to fill the holes left by Treveler. As such, the Examiner has failed to make a *prima facie* case of obviousness.

Conclusion

In light of the above remarks and amendments, Applicants believe that all of the Examiner's rejections of the pending claims have been overcome; and since the Examiner has failed to present a *prima facie* case for non-statutory subject matter and none of the references cited by the Examiner, alone or in combination, anticipate or render obvious all of the elements of the claims presented herein, Applicants respectfully request that the

Examiner withdraw all rejections to the present application and allow this application to pass to issuance.

As a final point, there is also included herewith a petition for a three month extension of time and the associated petition fee. Also enclosed herein is a Request for Continued Examination and the associated fee. It is believed no other fees are due in conjunction with this filing; however, the Commissioner is authorized to credit any overpayment or charge and deficiencies necessary for entering this amendment, including any claims fees and/or extension fees to/from our **Deposit Account No. 50-0975**.

If any questions remain, Applicants respectfully request a telephone call to the below-signed attorney at (314) 444-1384.

Respectfully submitted,
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